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COHN AND MARKS

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MARK L. PELESH
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ALLAN ROBERT ADLER

OF COUNSEL
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LEONARD H. MARKS

SUSAN V. SACHS
APRIL McCLAIN-DELANEY
JOHN R. PRZYPYSZNY
MELINDA K. SKINNER
MICHELLE M. SHANAHAN*

*MEMBER PENNSYLVANIA BAR ONLY

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1333 NEW HAMPSHIRE AVENUE, N. W.
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FEDERAL COMMUNICATIONS COMMISSION
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January 4, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

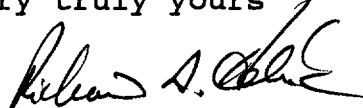
In Re: MM Docket No. 92-259

Dear Ms. Searcy

Submitted on behalf of Golden Orange Broadcasting Co., Inc. are an original and five copies of its comments with respect to the above-captioned proceeding pertaining to the implementation of the Cable Television Consumer Protection and Competition Act of 1992.

Any questions pertaining to this matter, should be addressed to the undersigned counsel.

Very truly yours


Richard A. Helmick

Enclosures

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BEFORE THE

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Federal Communications Commission

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Cable)
Television Consumer Protection)
and Competition Act of 1992)
)
Broadcast Signal Carriage Issues)

MM Docket No. 92-259

To: Federal Communications Commission

COMMENTS OF GOLDEN ORANGE BROADCASTING CO., INC.

Golden Orange Broadcasting Co., Inc. ("Golden Orange"), licensee of Independent UHF Television Broadcast Station KDOC-TV (Channel 56), Anaheim, California, hereby submits, through its attorneys and pursuant to Section 1.415 and 1.419 of the Commission's Rules, its comments in the above-captioned matter regarding implementation of the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Act"), specifically, the "must carry" and "retransmission consent" provisions for broadcast signal carriage. In support thereof the following is set forth.

1. Section 4 of the 1992 Act, codified at 47 U.S.C. § 614, generally requires cable operators to carry, on demand, the signals of at least three "local commercial television stations," up to a maximum of one-third of the total number of usable activated channels on the cable system. Beyond these must carry requirements, the cable system has discretion to carry additional

television signals, subject to the retransmission consent of the television stations which it chooses to carry.

2. A "local commercial television station" for must carry purposes under the 1992 Act is any full power commercial television station located in the same Arbitron Area of Dominant Influence ("ADI") as the cable system is located, except for (a) a television station that would be considered a distant signal under Section 111 of the Copyright Act, unless such station agrees to indemnify the cable operator for any increased copyright liability resulting from carriage on the cable system or (b) a television broadcast station that does not deliver a minimum signal strength level (-45 dBm for UHF signals or -49 dBm for VHF signals) at the input terminals of the cable system's signal processing equipment, unless the station agrees to be responsible for the cost of delivering a good quality signal to the cable system.

3. Golden Orange generally supports the Commission's proposal to essentially codify the above definition of "local commercial television station" in its rules as this should serve to facilitate must carry demands for both stations and cable operators. However, Golden Orange submits that the Commission should clarify such definition and provide that, to the extent a local station which is distant for copyright purposes originates its programming and owns or controls the copyrights for its programming, such local station may be carried on the cable system without any indemnification of the cable operator for copyright

royalty payments as no additional copyright royalty fees would be incurred under such circumstances.

4. The classification which Golden Orange requests is consistent with a ruling of the Copyright Office. Set forth as an attachment is a copy of a January 16, 1992 Advisory Opinion of the Copyright Office which holds that distant signals carried outside the cable compulsory license scheme are not subject to the compulsory copyright license requirements.

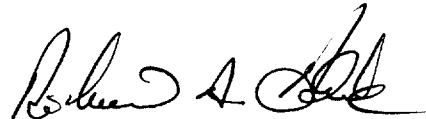
Respectfully submitted

GOLDEN ORANGE BROADCASTING CO., INC.

By:



Robert B. Jacobi



Richard A. Helmick

Cohn and Marks
Suite 600
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Its Attorneys

January 4, 1993

January 16, 1992



Jodi B. Brenner, Esq.
Counsel for Cox Cable Communications
Dow, Lohnes & Albertson
1255 Twenty-Third Street
Washington, D.C. 20037

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RE: Request for Advisory Opinion on Carriage of
a Directly Licensed Broadcast Signal on a
Non-Broadcast Tier

Dear Ms. Brenner:

This is in response to your letter of December 19, 1991, concerning the licensing of broadcast signals for retransmission by cable systems under a negotiated agreement.

Washington
D.C.
20559

A Cox cable system would like to carry the signal of a Univision television broadcast affiliate ("Univision"), for which it will negotiate a private carriage license, on a tier that does not otherwise contain broadcast signals. The negotiated license will cover all of Univision's network programming, local programming and music. You request an advisory opinion from this Office that the revenue generated from such tier need not be included in the cable system's calculation of gross receipts pursuant to section 111 of the Copyright Act of 1976, as amended, and section 201.17 of Copyright Office regulations.

You inquire whether such a negotiated license places the Univision signal outside the cable compulsory scheme in section 111 of the Copyright Act. Specifically you request that the Office confirm that the revenue generated from a tier of service that includes one or more broadcast signals that have all been privately licensed need not be included in a cable system's reportable gross receipts.

The Copyright Office agrees with your analysis, which is a logical extension of the policy decision issued by the Copyright Office

on November 28, 1984 (49 Fed. Reg. 46830). In that Notice of Policy decision, the Office stated:

If copyright owners and cable systems uniformly agree that negotiated retransmission consents supercede the compulsory license requirements, the Copyright Office has no reason to question this interpretation provided that the negotiated license covers retransmission rights for all copyrighted works carried by a particular broadcasting station for the entire broadcast day for each day of the entire accounting period. (Emphasis added.)

This decision should apply to the retransmission of a broadcast signal on a tier of service that includes one or more broadcast signals, for which you have negotiated licenses covering all of the copyrighted works for the entire broadcast day for each day of the relevant accounting period. The revenue from that tier of service need not be included in a cable system's gross receipts for secondary transmissions.

Sincerely,

Dorothy Schrader
General Counsel